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| SANDRA TOCCI,                  | ) |                                 |
|                                | ) |                                 |
| Plaintiff,                     | ) | Case No.: 2:21-cv-01302-GMN-NJK |
| vs.                            | ) |                                 |
|                                | ) | <b>ORDER</b>                    |
| CORECIVIC, INC., <i>et al.</i> | ) |                                 |
|                                | ) |                                 |
| Defendants.                    | ) |                                 |
|                                | ) |                                 |

Defendant Peterson’s Motion for Reconsideration requests “reconsideration or alteration” of the Court’s Order “pursuant to and in compliance with Rule 59 and Rule 60 of the Federal Rules of Civil Procedure, on the grounds that there is a definite legal prejudice to Defendant by being dismissed without prejudice, as opposed to with prejudice.” (*Id.*).

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1 Circuit has held that a Rule 59(e) motion for reconsideration should not be granted “absent  
2 highly unusual circumstances, unless the district court is presented with newly discovered  
3 evidence, committed clear error, or if there is an intervening change in the controlling law.”  
4 *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009)  
5 (quoting *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)). Under Rule  
6 60(b), a court may, upon motion and just terms, “relieve a party . . . from a final judgment,” on  
7 the ground that the “judgment is void[.]” Fed R. Civ. P. 60(b)(4). A judgment is “void only if  
8 the court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or if  
9 the court acted in a manner inconsistent with due process of law.” *In re Ctr. Wholesale, Inc.*,  
10 759 F.2d 1440, 1448 (9th Cir. 1985). Additionally, under Rule 60(b), a court may relieve a  
11 party from a final judgment, order, or proceeding only in the following circumstances: (1)  
12 mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud;  
13 (4) the judgment is void; (5) the judgment has been satisfied; or (6) any other reason justifying  
14 relief from the judgment. *Stewart v. Dupnik*, 243 F.3d 549, 549 (9th Cir. 2000).

15 The Court finds that Defendant Peterson’s Motion for Reconsideration fails to provide  
16 the Court with new facts, intervening case law, or evidence that the Court committed clear  
17 error. Although Defendant Peterson contends “a dismissal without prejudice is prejudicial” to  
18 Defendant because it may result in Defendant Peterson’s prosecution for the allegations made  
19 against him by Plaintiff, the Court finds Defendant Peterson’s argument unpersuasive.  
20 Specifically, the connection from this Court dismissing Defendant Peterson without prejudice  
21 to his criminal prosecution based on the allegations made by Plaintiff is too attenuated to justify  
22 altering or amending the Court’s previous Order.


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1 Accordingly, **IT IS HEREBY ORDERED** that Defendant Peterson's Motion for  
2 Reconsideration is **DENIED**. The Court additionally **DISMISSES AS MOOT** Defendant  
3 Peterson's Motion for Status on the Motion for Reconsideration.

4 **DATED** this 24 day of May, 2023.

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Gloria M. Navarro, District Judge  
United States District Court  
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